

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re:

JAMES A SZYMCZAK

Debtor(s)

NOTICE OF MOTION AND MOTION
FOR DISMISSAL OR CONVERSIONCase No. - BKY 18-42718 MER
Chapter 13

TO: All parties in interest under LOCAL RULE 9013-3.

1. Gregory A. Burrell, (the "Trustee"), moves the Court for the relief requested below and gives notice of hearing.

2. The Court will hold a hearing on this motion at 10:30 a.m., or as soon thereafter as counsel may be heard, on **Thursday, June 6, 2019**, in U.S. Bankruptcy Court, Courtroom 7 West, Seventh Floor, United States Courthouse, 300 South Fourth Street, Minneapolis, Minnesota.

3. Any response to this motion must be filed and served not later than Friday, May 31, 2019, which is five days before the time set for the hearing (including Saturdays, Sundays, and holidays). ***Unless a response opposing the motion is timely filed, the court may grant the motion without a hearing.***

4. The Court has jurisdiction of this motion pursuant to 28 U.S.C. §§157 and 1334, Fed. R. Bankr. P. 5005 and Local Rule 1070-1. This proceeding is a core proceeding. This motion arises under 11 U.S.C. §1307 and Fed. R. Bankr. P. 1017. This motion is filed under Fed. R. Bankr. P. 9013 and Local Rule 9013-1 *et seq.* The petition commencing this chapter 13 case was filed on 8/27/18. The case is now pending in this Court.

5. If testimony is necessary as to any facts relevant to this motion, Dawn Kassa, Chapter 13 Trustee's Office, 100 South Fifth Street, Suite 480, Minneapolis, Minnesota, will testify on behalf of the Trustee.

6. The Trustee requests that this case be dismissed or converted to a Chapter 7 case because Debtor(s) failed to make payments to Trustee thereby creating current defaults or arrearages on plan payments of \$970.00 as of May 7, 2019. The last payment credited to the Debtor(s)' account was on 2/26/2019. Total payments of \$2805.00 have been made to date hereof. Required monthly payments are currently \$485.00.

The May, 2019 payment is not included in the listed default amount. Any payment less than the amount required to bring the plan current will not prevent dismissal of this case.

All payments to cure plan arrears must be made with a cashiers check or money order and sent to: Gregory A. Burrell; PO Box 860026; Minneapolis, MN 55486-0026. Do not send payments to the trustee's office.

NO PERSONAL CHECKS WILL BE ACCEPTED.

WHEREFORE, the Trustee requests an order granting the relief prayed for herein.

Gregory A. Burrell, Trustee

Dated: May 7, 2019

/e/ Jeffrey M. Bruzek
Jeffrey M. Bruzek #319260
Heather M. Forrest #0398764
Counsel for Chapter 13 Trustee
100 South Fifth Street, Suite 480
Minneapolis, MN 55402
(612) 338-7591

VERIFICATION

I, Dawn Kassa, an employee of the Trustee, declare, under penalty of perjury, that the foregoing is true and correct to the best of my knowledge, information and belief.

Dated: May 7, 2019

/e/ Dawn Kassa
Dawn Kassa
Chapter 13 Office

In Re:

JAMES A SZYMCZAK

Debtor(s)

UNSWORN DECLARATION OF
PROOF OF SERVICE

Case No. - BKY 18-42718 MER
Chapter 13

I, Dawn Kassa, declare that on the date stated below I served a copy of the Notice of Motion and Motion for Dismissal or Conversion and Unsworn Declaration of Proof of Service, upon each of the entities named below in the manner described, as follows:

Copy to Debtor(s) addressed to:

JAMES A SZYMCZAK
2700 QUENTIN AVENUE SOUTH
ST LOUIS PARK, MN 55416-

Additional Copy(s) by electronic mail or by first class U.S. mail postage prepaid addressed to:

LUTZ LAW FIRM
527 MARQUETTE AVE
SUITE 860
MPLS MN 55402-

and I declare, under penalty of perjury, that the foregoing is true and correct.

Dated: May 7, 2019

/e/ Dawn Kassa
Dawn Kassa
Chapter 13 Office